

ESTTA Tracking number: **ESTTA628021**

Filing date: **09/18/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Double Down, Inc.		
Entity	Corporation	Citizenship	Nevada
Address	Post Office Box 14984 Las Vegas, NV 89114 UNITED STATES		
Attorney information	Laura E. Bielinski Brownstein Hyatt Farber Schreck LLP 100 N. City Parkway, Suite 1600 Las Vegas, NV 89106 UNITED STATES lvpto@bhfs.com, jobermeyer@bhfs.com, lbielinski@bhfs.com, nbaker@bhfs.com, Phone:702-382-2101		

Applicant Information

Application No	86244094	Publication date	08/19/2014
Opposition Filing Date	09/18/2014	Opposition Period Ends	09/18/2014
Applicant	IGT Trademark Department Reno, NV 89521 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Entertainment services, namely, providing on-line computer games

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	3085525	Application Date	05/19/2005
Registration Date	04/25/2006	Foreign Priority Date	NONE
Word Mark	DOUBLE DOWN SALOON		

Design Mark	DOUBLE DOWN SALOON
Description of Mark	NONE
Goods/Services	Class 043. First use: First Use: 1992/12/01 First Use In Commerce: 1992/12/01 Restaurant and tavern services

U.S. Registration No.	3754434	Application Date	07/21/2009
Registration Date	03/02/2010	Foreign Priority Date	NONE
Word Mark	DOUBLE DOWN SALOON		
Design Mark	DOUBLE DOWN SALOON		
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1992/12/01 First Use In Commerce: 1992/12/01 Entertainment in the nature of casino services and live performances by musicians and musical groups		

U.S. Application No.	86205284	Application Date	02/26/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	DOUBLE DOWN		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 043. First use: First Use: 1993/02/01 First Use In Commerce: 1993/02/01 Bar services; Cocktail lounge services; Tavern services

U.S. Application No.	86205273	Application Date	02/26/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	DOUBLE DOWN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1993/02/01 First Use In Commerce: 1993/02/01 Entertainment in the nature of casino services and live performances by musicians and musical groups		

Attachments	78633295#TMSN.png(bytes) 77786370#TMSN.png(bytes) 86205284#TMSN.png(bytes) 86205273#TMSN.png(bytes) Notice of Opposition - 86244094.pdf(382053 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Laura E. Bielinski/
Name	Laura E. Bielinski

Date	09/18/2014
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Double Down, Inc.,
Opposer,

v.

IGT,
Applicant.

OPPOSITION NO. _____

Serial No.: 86/244,094

Mark: DOUBLE DOWN STUD

International Class: 041

Filing Date: April 7, 2014

NOTICE OF OPPOSITION

Double Down, Inc. ("Opposer"), a Nevada corporation having a registered address of Post Office Box 14984, Las Vegas, Nevada 89114, will be damaged by registration of the mark DOUBLE DOWN STUD (Ser. No. 86/244,094), and hereby opposes registration of the same pursuant to 15 U.S.C. § 1063(a). The grounds for opposition are as follows:

I. BACKGROUND FACTS

A. Opposer's Marks

1. For over two decades, Opposer has owned and operated the Double Down Saloon in Las Vegas, Nevada ("Double Down Property"), which offers, among other things, casino services, bar and restaurant services, and live entertainment services.

2. In 1993, Opposer secured a restricted gaming license, which authorized Opposer to offer casino services at the Double Down Property, including, but not limited to, video poker, blackjack, keno and slots.

3. Since at least as early as February 1, 1993, Opposer has continuously offered casino services at the Double Down Property under the trademarks DOUBLE DOWN SALOON

and DOUBLE DOWN (“Opposer’s Marks”).

4. Opposer has expended substantial sums of money to advertise and promote the Double Down Property and Opposer’s Marks in nationwide print and broadcast media, and on the Internet, including through Opposer’s website located at www.doubledownsaloons.com and various social media outlets.

5. The Double Down Property has received national media coverage, including features on The Travel Channel as well as NBC’s The Today Show.

6. Because of Opposer’s significant investment in Opposer’s Marks over the course of more than two decades, Opposer’s Marks have acquired tremendous goodwill in the United States.

7. Opposer owns federal registrations for the DOUBLE DOWN SALOON trademark for “[r]estaurant and tavern services” in International Class 43 and “[e]ntertainment in the nature of casino services and live performances by musicians and musical groups” in International Class 41 (Registration Nos. 3,085,525 and 3754434). In both registrations, the term “SALOON” is disclaimed as descriptive of Opposer’s services.

8. Opposer owns federal applications for the trademark DOUBLE DOWN for “[b]ar services; [c]ocktail lounge services; [t]avern services” in International Class 43 and “[e]ntertainment in the nature of casino services and live performances by musicians and musical groups” in International Class 41 (Serial Nos. 86/205,284 and 86/205,273), which are currently pending before the United States Patent and Trademark Office (“USPTO”).

B. Applicant’s Mark

9. Upon information and belief, and as stated in the records of the USPTO, IGT (“Applicant”) is a Nevada corporation with an address of 520 S. Rock Boulevard, Reno, Nevada

89502.

10. Upon information and belief, and as stated in the records of the USPTO, on April 7, 2014, Applicant filed an intent-to-use application for Applicant's Mark pursuant to 15 U.S.C. § 1051(a). The USPTO assigned the application Serial No. 86/244,094 ("Application"), which is the subject of this Notice of Opposition.

11. Upon information and belief, and as stated in the records of the USPTO, the Application was published for opposition in the Official Gazette on August 19, 2014.

12. Upon information and belief, and as stated in the records of the USPTO, the Application contained an assertion that "[t]he applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services."

13. Upon information and belief, neither Applicant nor Applicant's related companies have used Applicant's Mark in commerce or licensed Applicant's Mark for use in commerce in connection with the services identified in the Application.

II. STANDING

14. Opposer will be damaged by the registration of Applicant's Mark because a likelihood of confusion exists between the Applicant's Mark and Opposer's Marks.

III. GROUNDS FOR OPPOSITION – LIKELIHOOD OF CONFUSION

15. Applicant's Mark is confusingly similar to Opposer's Marks.

16. The services set forth in the Application are the same or highly related to the services Opposer offers under Opposer's Marks.

17. Opposer's rights in Opposer's Marks predate the filing date of the Application.

18. In view of the similarities between Applicant's Mark and Opposer's Marks, and

the similarity of the uses and/or proposed uses thereof, Applicant's use of Applicant's Mark is likely to cause confusion, and/or to cause mistake, and/or to deceive consumers.

19. Because Opposer's rights in Opposer's Marks are prior and senior to Applicant's rights in Applicant's Mark, and a likelihood of confusion exists between these marks, the Board should refuse to register Applicant's Mark pursuant to 15 U.S.C. § 1052(d).

IV. REQUEST FOR RELIEF

WHEREFORE, Opposer prays that (a) Application Serial No. 86/244,094 be rejected, (b) Applicant's Mark be finally refused registration, and (c) this Notice of Opposition be sustained in Opposer's favor.

Respectfully submitted,

Dated: September 18, 2014

By: /Laura E. Bielinski/
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Attorneys for Opposer,
Double Down, Inc.

PROOF OF SERVICE

Julie Obermeyer, an employee of Brownstein Hyatt Farber Schreck, LLP, says that on September 18, 2014, she served a copy of this NOTICE OF OPPOSITION upon the following by enclosing the same in a First Class postage paid envelope and depositing it in the U.S. mail:

IGT Trademark Department
9295 Prototype Drive
Reno, Nevada 89521
Attn: David Berdan

I declare that the statement above is true to the best of my information, knowledge and belief.



Julie Obermeyer